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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,872

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Ralph G. Jelic

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03/17/2010

DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

RAMSEY, JEREMY C

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

03/17/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/581,872

**Applicant(s)**

JELIC ET AL.

**Examiner**

JEREMY C. RAMSEY

**Art Unit**

3634

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35, 37-39 and 49-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35, 37-39 and 49-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

***Response to Amendment***

The following office action is in response to the amendment filed 12/02/2009. Claims 1-20, 22,23,25,26,28,29, 35, 37-39 40-46 and 49-90 are pending. Claims 35, 37-39, 49, 50 and 51 are rejected as set forth below, other pending claims are withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 49 and 50 are rejected under 35 U.S.C. 102(a) as being anticipated by Schnebly et al 4,884,612.

In re claims 49 and 50, with reference to Figure 3, Schnebly et al '612 disclose a fabric for use in a covering comprising:

- A plurality of elongated vanes having an elongated flexible component (30) with first and second longitudinal edges (top and bottom).
- An elongated semi rigid component (34) with first and second longitudinal edges.
- Said first edges of said components (34) being connected and said second edge (bottom) of each flexible component (30) being directly connected to an adjacent vane.
- Said second edge (top) of each flexible component (30) is directly connected to an adjacent vane at the connection of the first edge (top) of

said components (30) of said adjacent vane (rigid component 34 is between the top and bottom ends of 30).

Claim 51 is rejected under 35 U.S.C. 102(b) as being anticipated Yu et al 6,792,996.

In re claim 51, with reference to Figures 1 and 4, Yu et al '996 discloses a fabric for use in a covering comprising:

- A flexible support structure (210) having an exterior surface.
- A plurality of parallel elongated vanes (216)(218) at spaced locations along said support structure (210), all said vanes (216)(218) connected individually and directly to said support structure (210) and being adapted to move in response to movement of said support structure (210) and project from said exterior surface of said support structure when the fabric is moved between said extended and retracted positions.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 35 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dodich et al 4,739,816 in view of Cooper et al D436,783.
3. In re claim 35 with reference to Figures 1 and 4, Dodich et al '816 discloses a fabric for use in covering a building structure comprising:

- A plurality of adjacent fabrics positioned in one or a plurality of architectural openings each fabric comprising a flexible vertically extending support structure (48').
- A plurality of parallel elongated vanes (50) supported at spaced locations along the support structure (48'), said vanes comprising semi-rigid slats secured to the support structure (48') to form an acute angle, wherein movement of said vanes is totally dependent on movement of the support structure (48').
- The fabric includes a top edge (42), bottom edge, the top edge fixed in an architectural opening and the other edge being vertically movable.

Roy '311 fails to disclose:

- The edge forms a continuous non-linear edge being alignable and forming a continuation with the associated edge of another adjacent fabric so as to form a substantially continuous non-linear edge.
4. With reference to Figure 1, Cooper et al '783 discloses:
- The edge forms a continuous non-linear edge being alignable and forming a continuation with the associated edge of another adjacent fabric so as to form a substantially continuous non-linear edge.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to make the edge of the fabric be in the form of a continuous non linear edge, as taught by Cooper et al '783 in order to provide a differing aesthetic look. since such a modification would have involved a mere change in the size of a

component. A change in shape is generally recognized as being within the level of ordinary skill in the art. Further, changes in size or shape without special functional significance are not patentable. *Research Corp.v. Nasco Industries, Inc.*, 501 F2d 358; 182 USPQ 449 (CA 7) cert. Denied 184 USPQ 193; 43 USLW 3359 (1974).

5. In re claims 37-39, Dodich et al/Cooper et al disclose:

- A control system (46') for moving said fabric between extended and retracted positions.
- The fabrics have upper and lower edges and wherein the control system includes lift cords (46') anchored to the top edge for moving the top edge toward the bottom edge.

6. Dodich et al/Cooper et al fail to disclose:

- Wherein the control system includes cords anchored to the bottom edge for moving the bottom edge toward the top edge.

7. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to make the control system be attached to the bottom edge instead of the top edge since it has been held that a mere reversal of the essential working <sup>P</sup>arts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 35, 37-39, and 49-51 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JEREMY C. RAMSEY** whose telephone number is (571)270-3133. The examiner can normally be reached on Monday-Friday 6:30 am-4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/  
Supervisory Patent Examiner, Art  
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Examiner, Art Unit 3634